

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**NANCY MAI AND JENNIFER DAO,**  
*Plaintiffs,*

**v.**

**AMGUARD INSURANCE COMPANY**  
*Defendant.*

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**CAUSE NO. 20-896**

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**NOTICE OF REMOVAL**

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TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW INTO COURT, through undersigned counsel, comes Defendant **AmGUARD Insurance Company**, who pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and the Local Rules of the United States District Court for the Southern District of Texas, respectfully notifies this Honorable Court that the above-entitled cause has been removed from the 133<sup>rd</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, and in support of said Notice of Removal, Defendant states as follows:

**I.  
PROCEDURAL HISTORY**

1. On September 4, 2019, Plaintiffs Nancy Mai and Jennifer Dao filed their Original Petition in Cause No. 2019-62919, *Nancy Mai and Jennifer Dao v. Amguard Insurance Company*, in the 133<sup>rd</sup> Judicial District Court of Harris County, Texas.<sup>1</sup> Request for process and a Citation were issued on September 18, 2019<sup>2</sup> and Defendant was in receipt of Plaintiffs' Original Petition, on February 10, 2020.

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<sup>1</sup> See attached Exhibit B, a true and correct copy of Plaintiffs' Original Petition, Jury Demand and Requests for Disclosure.

<sup>2</sup> See attached Exhibit C, Corporate Citation.

## **II. TIMING**

2. This Notice of Removal is timely, as filed within thirty (30) days of receipt of the Original Petition, and is therefore timely filed under 28 U.S.C. §1446(b).

## **III. DIVERSITY OF CITIZENSHIP**

3. Plaintiffs' Original Petition establishes that the United States District Court for the Southern District of Texas, Houston Division has jurisdiction by reason of diversity of citizenship of the parties pursuant to 28 U.S.C. §1332. Plaintiffs' claim the loss occurred in Harris County, Texas.<sup>3</sup> Plaintiffs' principal office is located in Harris County, Texas.<sup>4</sup> Defendant is a foreign corporation, and thus not a citizen of the State of Texas.<sup>5</sup>

4. For purposes of removal, it must therefore be presumed that Plaintiffs are now, and were at the time this action was commenced, citizens of Texas and that Defendant is now, and was at the time this action accrued, not a citizen of the State of Texas.

5. Therefore, because Plaintiffs and Defendant are citizens of different states, there is complete diversity of citizenship.

## **IV. AMOUNT IN CONTROVERSY**

6. The amount in controversy exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. §1332(a). Plaintiffs allege in their Original Petition that they seek "monetary relief of over \$200,000.00 but no more than \$1,000,000."<sup>6</sup>

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<sup>3</sup> *Exhibit B.* at paragraph 6.

<sup>4</sup> *Id.* at paragraph 3.

<sup>5</sup> *Id.* at paragraph 4.

<sup>6</sup> *Id.* at paragraph 44.

**V.  
ORIGINAL JURISDICTION**

7. Because there exists diversity of citizenship between Plaintiffs and Defendant, and the amount in controversy exceeds the minimal jurisdictional requirements, this Court has original jurisdiction of this case, pursuant to 28 U.S.C. §1332. Pursuant to 28 U.S.C. §1441(a), this action is properly removed to the United States District Court for the Southern District of Texas, the judicial district in which the state court suit was pending in Harris County, Texas.

**VI.  
NOTICE TO STATE COURT**

8. A copy of this Notice of Removal is being filed with the 133<sup>rd</sup> Judicial District Court of Harris County, Texas and is being served on counsel of record, consistent with 28 U.S.C. §1446(d).

**VII.  
ATTACHMENTS**

9. All pleadings, process, and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a), as Exhibits B-D and/or will be supplemented upon receipt from the State Clerk of Court. A true and correct copy of the docket for the state court action is attached hereto as Exhibit A.

**VIII.  
CONSENT**

10. There are no other defendants so no consent is necessary.

**IX.  
CONCLUSION**

11. For the foregoing reasons, Defendant requests that this Court place this case on the docket of the United States District Court for the Southern District of Texas, Houston Division. Defendant AmGUARD Insurance Company respectfully notifies this Honorable Court that this

case has been removed from the 133<sup>rd</sup> Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, pursuant to the provisions of 28 U.S.C. §§1332, 1441, and 1446 and the Local Rules of the United States District Court for the Southern District of Texas..

Respectfully submitted,

**WILSON ELSEER MOSKOWITZ  
EDELMAN & DICKER LLP**

*/s/ Kristie E. Johnson*

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing instrument was served on all counsel in accordance with the Federal Rules of Civil Procedure via the Court's CM/ECF system on this 11<sup>th</sup> day of March, 2020:

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*/s/ Kristie E. Johnson*

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**KRISTIE E. JOHNSON**

**RULE 11 CERTIFICATION**

Pursuant to the requirements of 28 U.S.C. § 1446, I hereby certify this removal pursuant to Federal Rule of Civil Procedure 11.

*/s/ Kristie E. Johnson*

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**KRISTIE E. JOHNSON**